COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0619-05
Bill No.: SS for HB 253 with SA4 & SA5
Subject: Business and Commerce; Taxation and Revenue - Income
Type: Original
Date: May 8, 2013

Bill Summary: This proposal would change multiple provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue *	More than $100,000	($120,744,695) to Possibly $79,255,305 with passage of federal Marketplace Fairness Act	($120,808,259) or ($201,655,259) to Possibly $79,091,741 or ($1,655,529) with passage of federal Marketplace Fairness Act
Total Estimated Net Effect on General Revenue Fund *	**More than $100,000**	**($120,744,695) to Possibly $79,255,745 with passage of federal Marketplace Fairness Act**	**($120,808,259) or ($201,655,259) to Possibly $79,091,741 or ($1,655,529) with passage of federal Marketplace Fairness Act**

*If fully implemented, step 10 fiscal impact ranges from ($692,128,000) to possibly ($492,128,000) with passage of federal Marketplace Fairness Act.

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 40 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Conservation Commission	Unknown to (Unknown)	More than $100,000 to (Unknown)	More than $100,000 to (Unknown)
Parks, and Soil and Water	Unknown to (Unknown)	More than $100,000 to (Unknown)	More than $100,000 to (Unknown)
School District Trust	(Unknown)	More than $100,000 to (Unknown)	More than $100,000 to (Unknown)
Total Estimated Net Effect on Other State Funds	**Unknown to (Unknown)**	**More than $100,000 to (Unknown)**	**More than $100,000 to (Unknown)**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	3 FTE	4 FTE	4 FTE
Total Estimated Net Effect on FTE	**3 FTE**	**4 FTE**	**4 FTE**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	**(Unknown)**	**More than $100,000 to (Unknown)**	**More than $100,000 to (Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Section 32.070, RSMo. - Streamlined Sales Tax:

In response to similar language in HCS for SS#2 for SCS for SB Nos. 26, 11 & 31, LR 0363-11, officials from the **Office of Administration, Division of Budget and Planning (BAP)** assumed the proposal would not result in additional costs or savings to their organization. BAP officials provided the following analysis of the proposal:

This proposal would require the adoption and implementation of the Streamlined Sales Tax Agreement; the proposal would become effective Jan. 1, 2015.

Two studies of the state and local revenues that Missouri might gain from collecting sales tax on e-commerce provided an estimated range of $108 million (Eisanach & Litan, Feb. 2010) and $210 million (Bruce, Fox, & Luna, April 2009). Both studies are limited to the gains from e-commerce, and do not attempt to estimate other remote sales.

BAP officials noted that remote sellers would be able to remit sales tax under this agreement and estimated that this proposal would generate at least $10 million in Total State Revenues annually, of which $7 million would be due to the General Revenue Fund. However, the full amount may not be collected during the first year, due to the administrative processes of becoming a full member state of the SSTA.

ASSUMPTION (continued)

Oversight has reviewed the studies cited by BAP and we noted that there are significant differences between the two studies in the methodology used to estimate the level of internet and other remote sales, the proportion of remote sales which would be taxable, and the current level of compliance with existing tax provisions.

The Bruce, Fox, and Luna report suggests that approximately 25% of sales taxes due on e-commerce are uncollected, and that sales tax collections on e-commerce were $26.1 billion for the year 2010. This rough estimate of the uncollected sales tax would indicate that $8.7 billion was uncollected for the United States. If 1.8% of the $8.7 billion was due the state of Missouri, the additional revenue would amount to $156.6 million. The Eisenach and Litan report suggests only $3.8 billion in uncollected sales tax on e-commerce; 1.8% of that amount attributable to Missouri would be $70.2 million.

Information reported by the United States Census Bureau indicates that online retail sales grew at an average rate of 20% per year for the years 2000 to 2007, with lower growth rates for 2007 to 2009. A report by marketing and information technology consultants Forrester Research projected a 10% annual growth rate for the years 2009 through 2015, with online sales accounting for 11% of total retail sales (excluding groceries) by 2015.

Oversight was provided an estimate of Streamlined Sales Tax Program revenue by officials from the Streamlined Sales Tax Governing Board. That estimate was based on comparing population and per capita income information for Missouri with the same information for states currently participating in the Streamlined Sales Tax program. Based on those calculations, Streamlined Sales Tax Governing Board officials estimated that those Missouri state funds which receive sales tax revenues would collect an additional $13.7 million in the first full year of operation.

Streamlined Sales Tax Governing Board officials stated that the program is currently voluntary, and the member states have agreed to simplify their sales tax programs and contract with third-party transaction processors who collect and remit sales taxes to the member states. Participating multistate retailers agree to collect and remit sales taxes to member states, typically in exchange for an amnesty on prior uncollected sales and use taxes.

Oversight assumes the Governing Board estimate is the most reasonable estimate of potential additional revenue under the current voluntary program. Additional revenue could become available in the future if the United States government approves law changes to make state sales tax laws enforceable on interstate sales.

ASSUMPTION (continued)

The $13.7 million in additional collected would be due to the following state funds, and **Oversight** has also provided an estimate of additional revenues to local governments.

Entity	Tax Rate	
General Revenue Fund	3.000%	$9,738,000
School District Trust Fund	1.000%	$3,246,000
Conservation Commission Fund	0.125%	$324,600
Parks, and Soils Fund	0.100%	$405,800
Local Governments *	Average 3.800%	$12,334,900
Total	NA	$26,049,300

* The average rate for local sales and use tax is calculated based on tax revenues reported by the Department of Revenue for the year ended June 30, 2010.

For fiscal note purposes, Oversight will indicate additional revenue in excess of $100,000 per year beginning in FY 2015 for those state funds that receive sales tax revenues, and for local governments.

Sections 32.383, RSMo. - Tax Amnesty Program:

In response to similar provisions in SCS for HB 55, LR 0158-02, officials from the **Office of Administration - Division of Budget and Planning (BAP)** assumed the proposal would not result in additional costs or savings to their organization.

BAP officials stated that the proposal would create an amnesty from all accrued penalties and interest on unpaid taxes, if taxes are appropriately filed and paid during a period from August 1, 2013, to October 30, 2013. This proposal appears to be similar to the amnesty program in FY 2003.

ASSUMPTION (continued)

BAP officials assumed $75 million would be collected, including $50 million already identified from Department of Revenue (DOR) investigations completed or in process. BAP officials stated the $50 million is part of the revenue base when the consensus revenue estimates are determined for FY 2014 and future years. BAP assumes the balance of $25 million would be "new" revenues from previously unidentified sources.

BAP officials stated their collection estimates are based on income and sales tax liabilities and noted that a small amount of additional funds may be collected if other taxes administered by DOR, such as tobacco taxes, are included in the amnesty. BAP officials assume 84.2% of collections would be deposited in to the General Revenue Fund, based on the results of the amnesty program in FY 2003.

Further, BAP officials assume the proposed amnesty would persuade delinquent taxpayers to settle accounts in a more timely fashion than is typical. Based on data provided by DOR, BAP officials estimated 27% of liabilities collected are settled within nine months after being identified by DOR, with others taking 36 months or more to settle. BAP officials assume the amnesty program would bring all of these payments into the three-month amnesty window, which occurs about nine months after the end of tax year 2012. Thus, the amnesty would have a positive impact in FY 2014, and a negative impact on later years.

All funds other than revenues earmarked by the Constitution of Missouri would be deposited in the General Revenue Fund under the proposal. Some revenues normally earmarked for education would be deposited into the General Revenue Fund.

BAP officials assume this proposal would increase General Revenue Fund receipts by $51.8 million in FY 2014, with impacts on Total State Revenue and later years as shown in the table below.

ASSUMPTION (continued)

All funds	All years	FY 2014	FY 2015	Subsequent years
Amnesty collections	$75.0	$75.0	$0.0	$0.0
Normal collections	($50.0)	($13.6)	($22.8)	($13.6)
Net increase	$25.0	$61.4	($22.8)	($13.6)

General Revenue Fund	All years	FY 2014	FY 2015	Subsequent years
Amnesty collections	$63.2	$63.2	$0.0	$0.0
Normal collections	($42.1)	($11.4)	($19.2)	($11.5)
Net increase	$21.1	$51.8	($19.2)	($11.5)

Officials from the **Department of Revenue (DOR)** assumed similar provisions in SCS for HB 55, LR 0158-02, would create a tax amnesty program.

The program would authorize an amnesty from penalties, additions to tax, and interest on taxes administered by the Department of Revenue (DOR), with respect to delinquent taxes due and owing as of December 31, 2012, and paid in full from August 1, 2013, to October 31, 2013. The amnesty would not extend to taxpayers who are a party to a pending criminal investigation, or pending civil or criminal litigation in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by this state.

Upon written application by the taxpayer using forms prescribed by the Director of Revenue, and upon compliance with the provisions of this section, DOR would waive any applicable penalty, addition to tax, or interest. Further, DOR would not initiate any civil or criminal prosecution for any taxpayer for which the amnesty was granted.

Amnesty would only be granted to taxpayers who have applied for amnesty within the period indicated in the proposal, have filed a tax return for each taxable period for which amnesty is requested, have paid the entire balance due within sixty days of approval by DOR, and agree to comply with state tax laws for the next eight years from the date of the agreement.

ASSUMPTION (continued)

Taxpayers granted amnesty under this section would be required to comply with the state's tax laws for eight years following the date of the amnesty agreement. If the taxpayer failed to comply with all of this state's tax laws at any time during the eight years following the date of the agreement, all penalties, additions to tax, and interest that were waived under the amnesty agreement would become due and owing immediately.

If a taxpayer elects to participate in the amnesty program, that election would constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received under this section would be eligible for refund or credit, and the amnesty program would not prohibit the Department of Revenue from adjusting a filer's tax return as a result of any state or federal audit.

All tax payments received as a result of the amnesty program established in this section, other than revenues earmarked by the state constitution would be deposited in the General Revenue Fund.

The Department could create rules or administrative guidelines to implement the provisions of this section. This section would become effective on July 1, 2013, and would expire on December 31, 2016.

Fiscal impact

Overall, DOR officials assume that a total of $75 million ($63 million General Revenue Fund) could be collected through the amnesty program, but a total of $50 million ($42 million General Revenue Fund) would have been previously identified by the department. DOR officials assume that an overwhelming majority of the $50 million, plus interest and penalties could be collected without amnesty.

DOR officials assume this proposal could have a net positive impact in FY 2014 of $51.8 million for the General Revenue Fund (GR) and $61.4 million in Total State Revenue.

According to DOR officials, this program could increase state revenue in FY 2014. Because the legislation includes known tax liabilities, some portion of the increase would reflect an acceleration of the collection of liabilities that DOR would otherwise have collected after FY 2014. The program could reduce interest and penalty collections in FY 2015 and subsequent years and could have the same effect on local sales and use tax interest and penalties.

ASSUMPTION (continued)

Oversight is not able to determine the reasonableness of the DOR revenue estimates since we do not have access to comparable information for similar programs, nor are we able to review any of the supporting documentation for those estimates since that information is confidential under the DOR interpretation of state law.

Administrative impact

DOR officials assume they would be required to create a new amnesty form and notices to issue to taxpayers that detail the amount owed and the amount eligible to be waived under the amnesty provisions. Further, DOR officials assume DOR and OA - ITSD (DOR) would need to make programming changes to all DOR tax systems to identify eligible periods for amnesty and to re - impose penalty and interest if the taxpayer is not in compliance for eight years.

DOR officials provided the following estimate of the cost to implement the amnesty program.

Based on 2011 estimates, there are approximately 490,000 known taxpayers with individual income, corporate income, employer withholding, and sales tax debts which could be eligible for amnesty.

Postage

* DOR officials would incur costs for postage, envelopes and printing of (490,000 x $.525 = $257,250).

Taxation Division Personnel

*	Overtime to review correspondence -	$102,000
*	Overtime to review errors on returns -	$74,460
*	Existing staff and temporary employees -	$147,900
*	Customer contacts -	$30,600
	Total	$354,960

ASSUMPTION (continued)

Advertising

The Department also recommended an advertising budget of at least $400,000. Advertising the amnesty should enhance overall participation in the program. Advertising should also help ensure that individuals and businesses not already in contact with the department about their tax liabilities participate in the program.

Contracted Services Option

In the alternative, the state could contract with a private vendor to administer the amnesty, like several other states which have achieved very good results. Contracting with a vendor would avoid the direct costs to the department as noted above. Vendor payment could be based on the percentage of the debts collected.

Oversight assumes the cost to operate the amnesty program with DOR staff would be less than the cost to manage the program using private vendors. In either case, DOR employees and managers would be required to identify the delinquent accounts and approve the waivers of penalties, interest, and additional tax.

ASSUMPTION (continued)

Motor Vehicle Bureau

DOR officials noted there are currently 223,059 potential participants who have active delinquent motor vehicle and marine fees. Further, DOR officials assume the Department would send an amnesty eligibility notice to each of these taxpayers.

* DOR officials would incur costs for postage, envelopes and printing (223,059 x $.525 = $117,106).

* The bureau would need to develop procedures for the 2013 amnesty program (40 hours of overtime for Management Analyst Specialist I) at a cost of $1,206 in FY 2014.

* The DOR web site would need to be revised to include information about the amnesty program (10 hours of overtime for an Administrative Analyst I) at a cost of $325 in FY 2014.

* Amnesty eligibility notices would need to be developed for motor vehicle sales tax, repossession accounts, and marine sales tax (120 hours of overtime for a Management Analyst Specialist I) at a cost of $3,618 in FY 14.

DOR officials assume the amnesty eligibility notice would allow for self certification that the applicant is not party to any pending criminal investigations nor to any pending civil or criminal litigation.

DOR officials also assume that implementation of the amnesty program could result in additional phone call inquiries to the Department, which could result in additional FTE being requested.

Finally, DOR officials assume only 10% of potential participants, or 22,305 taxpayers, would participate in the tax amnesty program. In addition, DOR officials assume the Department would allow a participant to take the signed amnesty eligibility notice to a local license office and make the amnesty payment. Title penalties would then be waived in the TRIPS system. Allowing license offices to accept amnesty payments would reduce the workload in the central office from amnesty payments, and could reduce potential FTE requirements.

ASSUMPTION (continued)

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of $103,602 based on 3,830 hours of programming time to make changes to DOR systems.

In summary, the DOR response included costs as follows:

Category	General Revenue Fund	Highway Fund
Salaries	$354,960	$5,150
Benefits	$180,124	$0
Letters	$12,250	$5,576
Envelopes	$19,600	$8,922
Postage	$225,400	$102,607
Advertising	$400,000	$0
Programming	$90,888	$12,714
Total	$1,283,222	$134,969

Oversight assumes the amnesty program would be implemented as part of a broader upgrade of DOR collections and customer service programs. Accordingly, Oversight will indicate unknown costs in excess of $100,000 in FY 2014 for the Department of Revenue to administer the amnesty program.

Oversight assumes in all cases, delinquent taxes collected would be significantly greater than the penalties, interest, and additions to tax waived, and will indicate additional revenues for the state General Revenue Fund in excess of $100,000, in addition to the recovery of program costs for FY 2014. Oversight will indicate unknown positive fiscal impact for the Conservation Commission Fund and the Parks and Soils and Water Fund for FY 2014.

ASSUMPTION (continued)

Oversight notes this proposal would require the Department of Revenue (DOR) to deposit all collections from the amnesty program, except for those which are earmarked by the Missouri Constitution, into the state General Revenue Fund. Therefore, taxes normally deposited to other (non-constitutional) state funds, such as the State School Moneys Fund, and for local governments may be deposited into the General Revenue Fund instead, if this proposal is enacted.

Finally, Oversight notes DOR has included costs to notify entities which remit motor fuel tax and other road fund revenues of the amnesty program, when the proposal requires all collections other than those for a constitutionally-created fund to be deposited into the General Revenue Fund. Oversight will not include any costs related to road funds in this fiscal note, and for fiscal note purposes will assume that no amnesty program collections would be deposited into road funds.

Sections 144.605, RSMo. - Use Tax and Nexus:

In response to similar provisions in SB 174 LR 1031-01 (2013) officials from the **Office of the Attorney General** assumed any potential costs arising from this proposal could be absorbed with existing resources.

In response to similar provisions in SB 174 LR 1031-01 (2013) officials from the **Joint Committee on Administrative Rules** assumed the proposal would not have a fiscal impact to their organization in excess of existing resources.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assumed similar provisions in HCS for SS#2 for SCS for SB Nos. 26, 11 & 31, LR 0363-11, officials would not result in additional costs or savings to their organization.

BAP officials assumed the proposal would expand the definition of "seller" and other related definitions under sales tax law, to include more out-of-state vendors doing business inside the state. BAP officials also noted that various studies have suggested Missouri is losing hundreds of millions of dollars in sales taxes on sales by out-of-state vendors, often via e-commerce. These changes would allow DOR to begin capturing taxes from some vendors that are currently unidentified. It would also make it easier to comply with the Streamlined Sales Tax Agreement.

ASSUMPTION (continued)

BAP officials estimated the proposal would increase Total State Revenues by $10 million annually, of which $7 million would be deposited in the General Revenue Fund.

In response to similar provisions in SB 174 LR 1031-01 (2013) officials from the **Department of Conservation (MDC)** assumed the proposal would have an unknown fiscal impact, but greater than $100,000 to their organization. MDC officials noted that Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to the Missouri Constitution and this proposal would expand the definition of "engaging in business" and "maintaining a business" within the state. MDC officials noted that any increase in sales and use tax collected would increase revenue to the Conservation Sales Tax funds, and assume the Department of Revenue would be better able to estimate the fiscal impact for this proposal.

In response to similar provisions in SB 174 LR 1031-01 (2013) officials from the **Department of Natural Resources (DNR)** assumed the proposal would modify existing provisions relating to Sales Tax and Compensating Use Tax. A presumption would be created that a vendor engages in business activities within this state if any person with a substantial nexus to Missouri performs certain activities in relation to the vendor within this state.

The proposal would void any agreement between the executive branch and any person that would exempt that person from the collection of sales and use tax, unless that agreement is approved by the General Assembly.

DNR officials noted that Parks and Soils Sales Tax Funds are derived from a one-tenth of one percent sales and use tax pursuant to the Missouri Constitution. DNR officials also noted that the proposal appears to expand who is required to collect the sales and use tax, potentially resulting in increased revenue for the Parks and Soils Sales Tax Funds.

DNR officials deferred to the Department of Revenue for an estimate of anticipated fiscal impact for the Parks and Soils Sales Tax Fund.

ASSUMPTION (continued)

In response to similar provisions in SB 174 LR 1031-01 (2013) officials from the **Department of Revenue (DOR)** assumed the proposal would modify the current definition of "engaging in business" in this state for sales and use tax purposes. This proposal would require approval by the General Assembly for any ruling, agreement, or contract between a person and this state's agencies exempting any person from collecting sales and use tax despite the presence of a warehouse, distribution center, or fulfillment center in this state that is owned or operated by the person or an affiliated person. An "affiliated person" would mean any person that is a member of the same "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code as the vendor.

A vendor would be presumed to "engage in business activities within this state" if any person, other than a common carrier acting in its capacity as such, that has substantial nexus with this state:

1) sells a similar line of products as the vendor and does so under the same or a similar business name,
2) maintains an office, distribution facility, warehouse, or storage place, or similar place of business in the state to facilitate the delivery of property or services sold by the vendor to the vendor's customers,
3) delivers, installs, assembles, or performs maintenance services for the vendor's customers within the state,
4) facilitates the vendor's delivery of property to customers in the state by allowing the vendor's customers to pick up property sold by the vendor at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in the state; or
5) conducts any other activities in the state that are significantly associated with the vendor's ability to establish and maintain a market in the state for the sales.

The proposal would allow for the rebuttal of those presumptions by demonstrating that the person's activities in the state are not significantly associated with the vendor's ability to establish or maintain a market in this state for the vendor's sales.

ASSUMPTION (continued)

A vendor would also be presumed to engage in business in the state if that vendor enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, if the cumulative gross receipts from sales under such arrangements exceed ten thousand dollars during the preceding twelve months. The proposal would allow for the rebuttal of this presumption by submitting sworn written statements from all of the residents with whom the vendor has such an agreement.

Fiscal impact

DOR officials assumed the proposal would generate increased revenue from sellers located outside the state.

Administrative impact

DOR officials assumed Collections and Tax Assistance (CATA) would require one additional FTE Revenue Processing Technician I (Range 10, Step L) per 8,300 additional registrations / maintenance to business tax accounts in Business Tax Registration; one additional FTE Revenue Processing Technician I (Range 10, Step L) per 24,000 additional contacts annually to the registration phone line, with CARES equipment and agent license; and one additional FTE Revenue Processing Technician I (Range 10, Step L) per 4,800 contacts annually to the field offices, with CARES equipment and agent license.

The DOR response included three additional FTE along with the associated benefits, equipment, and expense, and totaled $123,042 for FY 2014, $122,613 for FY 2015, and $123,903 for FY 2016.

Oversight assumes the DOR estimate of expense and equipment cost for the new FTE could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2014 could be reduced by roughly $6,000 per additional employee.

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for the additional employees to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees, and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also adjusted the DOR estimate of equipment and expense in accordance with OA budget guidelines. Finally, Oversight assumes a limited number of additional employees could be accommodated in existing office space.

Oversight has not been able to locate any reliable information as to the potential impact of sales and use tax changes in this proposal other than the estimates provided by the Office of Administration - Division of Budget and Planning and the Department of Revenue.
For fiscal note purposes, Oversight will assume that revenues from this proposal would generate more new sales and use tax revenue than would be needed to provide the additional employees requested by the Department of Revenue. If revenues are not adequate to support the costs of collections, Oversight assumes the program would be terminated.

Accordingly, **Oversight** will indicate additional revenues greater than the DOR costs for the General Revenue Fund. Oversight will indicate revenues greater than $100,000 per year for local governments and unknown additional revenues for the other state funds which receive general sales tax revenues. Oversight assumes the law changes in this proposal would not have an impact on motor vehicle or motor fuel sales and will not include any fiscal impact for transportation funds.

Oversight notes these provisions would expire January 1, 2015 and assumes the provisions would be replaced upon the state's implementation of the Streamlined Sales Tax. Accordingly, Oversight will only include costs and revenues for these provisions for FY 2014.

ASSUMPTION (continued)

Section 143.221, RSMo. - Quarterly Payroll Tax Filing:

In response to similar provisions in HB 105, LR 0566-01, officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

In response to similar provisions in HB 105, LR 0566-01, officials from the **Joint Committee on Administrative Rules** assumed similar provisions in HB 105, LR 0566-01 would not have a fiscal impact to their organization beyond its current appropriation.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assumed similar provisions in HB 105, LR 0566-01would not result in additional costs or savings to their organization.

BAP officials noted the proposal would increase the threshold for annual withholding filers from $20 to $100. Withholding taxes that would have otherwise been collected on a quarterly basis in April, July, and October would be delayed until January. This proposal would not directly impact General and Total State Revenues in the aggregate, but could have a cash flow impact across fiscal years.

Assuming the bill is effective Aug. 28, 2013, quarterly payments due in October 2013 would instead be remitted in January 2014. This will have no cash effect overall for FY 2014, though the timing of payments would be different. However, quarterly payments due in April and July of 2014 would not arrive until January 2015. Therefore, revenue collections would be reduced in FY 2014, and collections in FY 2015 would be increased by similar amounts. Similar patterns would follow in subsequent years.

ASSUMPTION (continued)

BAP officials also stated the Department of Revenue indicated approximately 6,500 businesses would be impacted by this proposal. BAP defers to DOR for estimated withholding amounts.

Officials from the **Department of Revenue (DOR)** assumed similar provisions in HB 105, LR 0566-01would allow an employer to file on an annual basis if that employer had less than $100 in withholding tax in each of the four preceding quarters. The Director of Revenue could change the amount required for making an annual payment but the amount could not be less than $100.

Revenue Impact

DOR officials assume this proposal would not reduce Total State Revenue, but would delay the collection of withholding taxes. This proposal would impact approximately 6,500 businesses that could delay the remittance of withholding taxes which would have been paid in April, July, and October until January of the following year.

Administrative Impact

DOR officials assume the Department would need to make forms changes, and the Department and OA - ITSD (DOR) would need to make programming changes to various tax systems.

DOR officials did not include an estimate of cost to implement the proposal, and **Oversight** assumes this proposal could be implemented with existing DOR resources.

IT Impact

DOR officials reported an estimate of the IT impact to implement this proposal of $1,082 based on an estimated 40 hours of programming to make changes to DOR systems.

Oversight assumes OA - ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight also assumes OA - ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA - ITSD (DOR) could request funding through the appropriation process.

ASSUMPTION (continued)

Oversight assumes this proposal would allow certain employers to delay filing and paying withholding taxes, which are currently due on a quarterly basis, until the following January 31. The amount of tax due and the overall amount of revenue for a tax year would not change; however, implementing this proposal could delay receipt of withholding taxes as explained below.

* Taxes withheld for the third calendar quarter ending September 30, 2013 are currently filed and paid by October 31; the proposal would include those taxes in an annual filing due January 31, 2014. Those taxes would be received in the same fiscal year (FY 2014) as currently required, although filing and payment of those funds would be delayed three months. For fiscal note purposes there would be no impact from that delay.

* Taxes withheld for the fourth calendar quarter ended December 31, 2013 would be paid January 31, 2014 as currently required.

* Taxes withheld for the first calendar quarter ending March 31, 2014 (FY 2014) are currently required to be filed and paid by April 30, 2014. The proposal would include those taxes in an annual filing due January 31, 2015, and they would be paid in January 2015 (FY 2015) instead of in April 2014. That delay would be permanent, as each year's first quarter withholding taxes would be paid the following state fiscal year.

* Based on the number of filers provided by the Department of Revenue, the amount of taxes delayed over the end of a state fiscal year could range from (6,500 filers x the current $20 threshold) = $130,000 to (6,500 filers x the new $100 threshold) = $650,000.

* Taxes withheld for the calendar quarters ending June 30, 2014 and September 30, 2014 would be paid in January, 2015. Those taxes would also be paid in the same fiscal year as currently required but would be delayed six months and three months, respectively, as compared to current requirements.

ASSUMPTION (continued)

For fiscal note purposes, **Oversight** will assume this proposal would result in an unknown revenue reduction greater than $100,000 for FY 2014. For FY 2015 and subsequent years, the previous year revenue received and the current year revenue deferred to the next year would be approximately equal.

Oversight also notes that this proposal would result in a permanent reduction in the number of payroll tax returns processed; the reduction would likely be somewhat less than three quarters' returns for the affected businesses or (3 x 6500) = 19,500 fewer returns.

In response to a similar proposal in the previous session (HCS for HB 1717, LR 5148-02, 2012) DOR officials assumed that most of the small quarterly return filers would be electronic filers and the proposal would not likely lead to a reduction in the number of tax return errors or phone calls sufficient to allow a staff reduction.

Section 238.235, RSMo. - Transportation Development District Tax:

This provision would exempt from transportation development district sales tax all sales of fuels used to power motor vehicles, aircraft, locomotives, or watercraft; electricity, piped natural or artificial gas, or other fuels delivered by the seller; and the retail sales or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

Oversight assumes this provision would result in a minimal reduction in local government revenues, and will indicate an unknown revenue reduction for local governments.

Sections 143.011, 143.022, and 143.151, RSMo. - Personal Income Tax Changes:

Officials from the **University of Missouri, Economic and Policy Analysis Research Center (EPARC)** stated the proposal would gradually reduce the individual income tax rates by modifying the personal income tax table. Beginning "on or before December 31, 2013 or on or before the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, whichever is latest" this bill would begin amending the personal income tax table. Every year where tax revenue collections exceed $100 million from the previous three-year high, the top personal income tax rate would be reduced by 0.05%. This method of reducing the top income tax rate would continue until the top tax rate equals 5.5%.

ASSUMPTION (continued)

Beginning in the same year as above, this proposal would allow an additional $1,000 personal and spouse income exemption for individuals earning less than $20,000 in Missouri adjusted gross income. Also, this proposal would allow a "business income" subtraction from filers' Federal adjusted gross income when deriving their Missouri adjusted gross income; a 10% subtraction for the first year outlined above, a 20% subtraction for the second year outlined above, a 30% subtraction for the third year outlined above, a 40% subtraction for the fourth year outlined above and a 50% subtraction for the fifth year and beyond.

EPARC officials stated their simulations require that these gradual changes in the individual income rates must be analyzed in conjunction with the proposed additional exemption for filers with less than $20,000 in Missouri AGI as well as the "Business Income" Subtraction.

EPARC estimated "business income" for the Missouri 1040 by assuming business income is self-employment income, and estimated self-employment income by dividing each filer's self-employment tax by their applicable tax rate. EPARC officials estimated aggregate positive "business income" was $7,229,010,965 for 312,226 Missouri filers.

Assuming the passage of the "Marketplace Fairness Act," the top Missouri personal income tax rate would be reduced by 0.5% immediately. This proposal would then gradually reduce the individual income tax rates by modifying the personal income tax table. Beginning "on or before December 31, 2013 or on or before the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, whichever is latest" this proposal would begin amending the personal income tax table. Every year where tax revenue collections exceed $100 million from the previous three-year high, the top personal income tax rate would be reduced by 0.05%. Combined with the passage of the "Marketplace Fairness Act," this method of reducing the top income tax rate would continue until the top tax rate equals 5%.

Oversight has summarized the EPARC simulation results for these personal income tax changes in the following table. Oversight notes EPARC has revised their estimates of individual and corporate income tax revenue reductions from their simulations of similar language in previous proposals.

ASSUMPTION (continued)

Personal Income Tax Simulations

Year	Revenue Reduction Without Marketplace Fairness Act	Revenue Reduction With Marketplace Fairness Act	Additional Revenue Reduction Due to Marketplace Fairness Act
Year 1	$102,296,000	$446,490,000	$344,194,000
Year 2	$164,715,000	$507,044,000	$342,329,000
Year 3	$225,514,000	$566,005,000	$340,491,000
Year 4	$284,483,000	$623,380,000	$338,897,000
Year 5	$341,487,000	$678,975,000	$337,488,000
Year 6	$374,901,000	$713,067,000	$338,166,000
Year 7	$408,262,000	$747,134,000	$338,872,000
Year 8	$441,571,000	$781,168,000	$339,597,000
Year 9	$474,837,000	$815,175,000	$340,338,000
Year 10	$508,053,000	$849,105,000	$341,052,000

Section 143.071, RSMo. - Corporate Income Tax Rate Reduction:

This provision would gradually reduce the corporate tax rate, with a requirement that each reduction would be implemented only if total revenue for the previous year exceeded the largest of the three preceding years total revenue collections.

ASSUMPTION (continued)

Officials from the **University of Missouri, Economic and Policy Analysis Research Center (EPARC)** stated the latest 2010 corporate income tax data indicated an aggregate corporate income tax liability of $383.905 million. Using this amount as a baseline and reducing the corporate tax rate from 6.25% to 5.95% the corporate tax liability would be reduced to $365.477 million. Further reducing the rate to 5.65% would reduce the total tax due to $347.049 million. Further reducing the rate to 5.35% would reduce the total tax due $328.622 million. Further reducing the rate to 5.05% would reduce the total tax due to $310.194 million. Further reducing the rate to 4.75% would reduce the total tax due to $291.767 million. Further reducing the rate to 4.45% would reduce the total tax due to $273.340 million. Further reducing the rate to 4.15% would reduce the total the total tax due to $254.912 million. Further reducing the rate to 3.85% would reduce the total tax due to $236.485 million. Further reducing the rate to 3.55% would reduce the total tax due to $218.057 million, and further reducing the rate to 3.25% would reduce the total tax due to $199.630 million.

Corporate Income Tax Simulations

Year	Rate	Revenue	Revenue Reduction
Baseline	6.25%	$383,905,000	$0
Year 1	5.95%	$365,477,000	$18,428,000
Year 2	5.65%	$347,049,000	$36,856,000
Year 3	5.35%	$328,622,000	$55,283,000
Year 4	5.05%	$310,194,000	$73,711,000
Year 5	4.75%	$291,767,000	$92,138,000
Year 6	4.45%	$273,340,000	$110,565,000
Year 7	4.15%	$254,912,000	$128,993,000
Year 8	3.85%	$236,485,000	$147,420,000
Year 9	3.55%	$218,057,000	$165,848,000
Year 10	3.25%	$199,630,000	$184,275,000

ASSUMPTION (continued)

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assumed a previous version of this proposal would not result in any additional costs or savings to their organization.

Personal income tax

BAP officials noted the proposal would phase in a deduction of business income from individual income tax, increasing from 10% in the first year, to 50% in the final year. The deductions would occur if the Office of Administration (OA) determines revenues have increased. If the average payroll of a particular business exceeds 150% of the county average wage, the full 50% deduction shall immediately apply.

Business Income would be defined as income greater than zero arising from transactions and activity in the regular course of the taxpayer's trade or business, and would include income from tangible property if the acquisition, management, and disposition of the property are integral parts of the taxpayer's regular trade or business operations.

BAP does not have data that specifically identifies taxable "business income". The IRS, in its Statistics of Income publication, provides the data for Missouri in the chart below from tax year 2010. BAP notes it is possible that Capital Gains or Dividend Income, as well as additional forms of income, could be included in business income in certain cases. BAP assumes that business income would exceed $10.5 billion. At the highest 6% marginal tax rate, the exclusion of 50% of business income could exceed $315 million, notwithstanding any inflationary growth.

ASSUMPTION (continued)

IRS Statistics of Income Data

Adjusted Gross Income ($Millions)	$135,415
Business Income	$3,960
Partnership Income	$6,565
Sub - total	$10,525
Ordinary Dividends	$3,295
Qualified Dividend	$2,680
Net Capital Gain	$3,803
Sub - total	$9,777
Total	$20,302

Oversight notes the information provided by BAP indicates that business income from self-employed people and partnerships would equal $10,525 million, and the proposal would provide a maximum exclusion of 50% of that or ($10,525 million x 50%) = $5,262.50 million which would lead to a maximum personal income tax reduction of ($5,262,50 million x 6%) = $315.750 million.

Further, Oversight notes that if dividends and net capital gains are to be excluded from taxable income as well as self-employment and partnership income, then 50% of an additional $9,777 million or ($9,977 million x 50%) = $4,988.50 million would be excluded and personal income tax revenue would be reduced by an additional ($4,988.50 million x 6%) = $299.31 million. The total revenue reduction would then be ($315.750 million + $299.31 million) = $615.06 million.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assume this proposal would reduce the corporate income tax rate and would create a graduated deduction for personal business income.

DOR officials assume the Department would need to make form changes, and the Department and OA - ITSD (DOR) would need to make programming changes to various tax systems. DOR officials noted the proposal would provide different income tax rates and deductions in the same year based on whether or not the business pays more than the county average wage.

DOR officials assume the Department would need to make form changes and the Department and OA - ITSD (DOR) would need to make programming changes to various tax systems.

Fiscal impact

DOR officials stated that for calendar year 2011, Missouri individual income tax filers reported $11.7 billion in "business" income of their federal form 1040s. The Department included the total reported on Schedule C, Schedule D, Schedule E and Schedule F in the calculation. Some portion of the $11.7 billion reported could have been earned outside the state of Missouri and would not have been taxable in Missouri. In addition, the $11.7 billion estimate does not include any Missouri business income included on a federal return filed by an individual that did not have a Missouri address.

Based on $11.7 billion in business income, and at the tax rate of 6 percent, the Department estimated the following reduction in individual income tax:

First year	$70.2 million
Second year	$140.4 million
Third year	$210.6 million
Fourth year	$280.8 million
Fifth year	$351.0 million

If any business income is subtracted at a rate of 50% in the manner provided in the proposal, the annual reductions noted above may be increased or decreased.

ASSUMPTION (continued)

DOR officials also reported that for calendar year 2010, Missouri corporate taxpayers reported $5.6 billion in taxable income and $350 million in tax. Based on the estimated tax of $350 million, the Department estimates the following reduction in corporate income tax:

First year	$34 million
Second year	$70 million
Third year	$105 million
Fourth year	$140 million
Fifth year	$175 million

Administrative impact

DOR officials assume that implementing this proposal would require additional employees. Personal Tax would require two additional Temporary Tax Employees for key entry; one additional FTE Revenue Processing Technician I (Range 10, Step L) per 19,000 additional errors; and one additional FTE Revenue Processing Technician I (Range 10, Step L) per 2,400 pieces of correspondence. Collections & Tax Assistance (CATA) would require one additional FTE Tax Collection Technician I (Range 10, Step L) per 15,000 additional contacts annually to the delinquent tax call center, plus CARES license and equipment; one additional FTE Tax Collection Technician I (Range 10, Step L) per 15,000 additional contacts annually to the non-delinquent call center, plus CARES license and equipment; and one additional FTE Revenue Processing Technician I (Range 10, Step L) per 4,800 additional contacts annually to the tax assistance offices plus CARES license and equipment for the Jefferson City tax assistance office. Corporate Tax would require one additional FTE Revenue Processing Technician I (Range 10, Step L) per 7,800 additional errors generated, plus CARES license and equipment; and one additional FTE Revenue Processing Technician I (Range 10, Step L) per 2,600 additional pieces of correspondence generated, plus CARES license and equipment.

The DOR estimate of cost to implement this proposal included two part-time employees and seven additional employees; with benefits, equipment, and expense, the DOR estimate totaled $301,123 for FY 2014, $302,023 for FY 2015, and $305,199 for FY 2016.

Oversight assumes the DOR estimate of expense and equipment cost for the new FTE could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2012 could be reduced by roughly $6,000 per employee.

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for the additional employees to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also adjusted the DOR estimate of equipment and expense in accordance with OA budget guidelines. Finally, Oversight assumes a limited number of additional employees could be accommodated in existing office space.

IT impact

DOR officials assume the IT cost to implement this proposal would be $54,533, based on 2,016 hours of programming to make changes to DOR systems.

Oversight will include the DOR estimate of IT cost in this fiscal note.

Senate Amendment 4

This amendment would make technical corrections to the rate reduction provisions, specifying that a minimum $100 million increase in total revenue over the highest of the most recent three years was required before any additional rate reduction was implemented.

Oversight has assumed that state revenues for FY 2013 would be sufficient to allow the 2014 (FY 2015) rate reduction to be implemented. For FY 2016, a range from the first year revenue reduction and the second year revenue reduction will be indicated.

Senate Amendment 5

This amendment would provide a sales tax exemption in Section 144.030 RSMo. for all sales of kidney dialysis equipment and enteral feeding supplies.

Oversight assumes this provision would result in an unknown revenue reduction for the General Revenue Fund, for other state funds which receive sales tax proceeds, and for local governments.

ASSUMPTION (continued)

The Oversight Subcommittee met on March 13, 2013, and voted to reflect additional revenue for the Streamlined Sales Tax program. The additional revenue would range from the combined revenue reduction for personal and corporate income which this proposal would require upon adoption of the Federal Marketplace Fairness Act or equivalent law, to an amount $200 million greater than the contingent income tax revenue reduction.

FISCAL IMPACT - State Government	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE FUND			
Additional revenue - DOR Streamlined Sales Tax Section 32.070	$0	More than $100,000	More than $100,000
Additional revenue - DOR Streamlined sales tax Marketplace Fairness Act contingency Sections 32.070, etc.	$0	$0 or $344,194,000 to $544,194,000	$0 or $342,239,000 to $542,239,000
Additional revenue - DOR Tax Amnesty Section 32.383	More than $100,000	$0	$0
Additional revenue - DOR Sales and use tax nexus Sections 140.010, 144.030, and 144.605	More than $112,424	$0	$0
Revenue reduction - DOR Delayed filing and payment of withholding taxes Section 143.221	(More than $100,000)	$0	$0
Cost - DOR Tax amnesty program Section 32.383	(More than $100,000)	$0	$0

FISCAL IMPACT - State Government (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
Cost - DOR			
Sales and use tax nexus			
Sections 144.010, 144.030, and 144.605			
Salaries and wages	($57,840)	$0	$0
Benefits	($29,351)	$0	$0
Equipment and expense	($25,233)	$0	$0
Total costs - DOR	($112,424)	$0	$0
FTE change - DOR	3 FTE		
Revenue reduction - DOR			
Sales tax exemption on equipment			
Section 144.030 (HA5)	(Unknown)	(Unknown)	(Unknown)
Cost - Department of Revenue			
Salaries	$0	($46,735)	($109,383)
Benefits	$0	($7,800)	($15,756)
IT costs	$0	($27,649)	($55,506)
Equipment and expense	$0	($38,511)	($3,614)
Total cost - Department of Revenue	$0	($120,695)	($184,259)
FTE change - DOR	0	4 FTE	4 FTE
Revenue reduction - DOR			
Corporate tax rate reduction			
Section 143.071	$0	($18,428,000)	($18,428,000 to $36,856,000)
(Fully implemented revenue reduction in tenth program year would be $184,275,000.)			
Revenue reduction - DOR			
Personal income tax changes			
Section 143.011, 143.022, and 143.151	$0	($102,296,000)	($102,296,000 to $164,715,000)
(Fully implemented revenue reduction in tenth program year would be $508,053,000.)			

FISCAL IMPACT - State Government (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
Revenue reduction - DOR			
Personal income tax			
Marketplace Fairness Act contingency		$0 or	$0 or
Section 143.011.2	$0	($344,194,000)	($342,239,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND *	**More than $100,000**	**($120,744,695) to Possibly $79,255,305 with passage of federal Marketplace Fairness Act**	**($120,808,259) or ($201,655,259) to Possibly $79,091,741 or ($1,655,259) with passage of federal Marketplace Fairness Act**

*If fully implemented, fiscal impact in the tenth step would range from ($692,128,000) to possibly More than ($492,128,000) with passage of the federal Marketplace Fairness Act.

Estimated FTE effect on General Revenue Fund	3 FTE	4 FTE	4 FTE

FISCAL IMPACT - State Government (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
CONSERVATION COMMISSION FUND			
Additional revenue - DOR Streamlined Sales Tax Section 32.070	$0	More than $100,000	More than $100,000
Additional revenue - DOR Tax Amnesty Section 32.383	Unknown	$0	$0
Revenue reduction - DOR Sales tax exemption on equipment Section 144.030 (HA5)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	**Unknown to (Unknown)**	**More than $100,000 to (Unknown)**	**More than $100,000 to (Unknown)**

FISCAL IMPACT - State Government (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
PARKS, AND SOIL AND WATER FUNDS			
Additional revenue - DOR Streamlined Sales Tax Section 32.070	$0	More than $100,000	More than $100,000
Additional revenue - DOR Tax Amnesty Section 32.383	Unknown	$0	$0
Revenue reduction - DOR Sales tax exemption on equipment Section 144.030 (HA5)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS	**Unknown to (Unknown)**	**More than $100,000 to (Unknown)**	**More than $100,000 to (Unknown)**
SCHOOL DISTRICT TRUST FUND			
Additional revenue - DOR Streamlined Sales Tax Section 32.070	$0	More than $100,000	More than $100,000
Revenue reduction - DOR Sales tax exemption on equipment Section 144.030 (HA5)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	**(Unknown)**	**More than $100,000 to (Unknown)**	**More than $100,000 to (Unknown)**

FISCAL IMPACT - Local Government	FY 2014 (10 Mo.)	FY 2015	FY 2016
LOCAL GOVERNMENTS			
Additional revenue - DOR Streamlined Sales Tax Section 32.070	$0	More than $100,000	More than $100,000
Revenue reduction - DOR Sales Tax exemption in TDD's Section 238.235	(Unknown)	(Unknown)	(Unknown)
Revenue reduction - DOR Sales tax exemption on equipment Section 144.030 (HA5)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	**(Unknown)**	**More than $100,000 to (Unknown)**	**More than $100,000 to (Unknown)**

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact to small businesses which are subject to income tax.

FISCAL DESCRIPTION

This proposal would modify provisions relating to taxation.

Personal Income Tax

The proposal would modify the individual income tax rate table. The maximum tax rate on personal income would be reduced by one-half of a percent over a period of years. Each reduction to the rate would be one-twentieth of a percent. No reduction could go into effect unless revenue in the previous fiscal year exceeded the amount of revenue in any of the three previous years by at least $100 million. Once the provision is fully phased in, the top rate of tax on individual income would be reduced to five and one-half percent.

FISCAL DESCRIPTION (continued)

If the federal government passes the Marketplace Fairness Act of 2013 or similar legislation, the maximum rate of tax on personal income would be reduced an additional one-half of a percent.

The proposal would create an individual income tax deduction for business income, and would phase it in over a five-year period. Taxpayers would be allowed to deduct ten percent of business income for 2014 and would be allowed a fifty percent deduction for all years after 2017. Shareholders of S corporations, and partners in partnerships would be allowed a proportional deduction based their share of ownership.

Currently, there is a personal exemption amount of $2,100 for personal income taxes. This proposal would increase the exemption amount by $1,000 for individuals with a Missouri adjusted gross income of less than $20,000.

Corporate Income Tax

The proposal would also reduce the tax rate on corporate income by 3% over a period of ten years. Each reduction to the rate would be three-tenths of a percent. No reduction wold go into effect unless revenue for the previous fiscal year exceeded the amount of revenue in any of the three preceding fiscal years by at least $100 million. Once the provision is fully phased in, the top rate of tax on corporate income would be reduced to three and one-quarter percent.

Employer Income Tax Withholding

Currently, an employer is allowed to file an annual withholding tax return instead of four quarterly returns when the aggregate amount withheld is less than $20 in each of the four preceding quarters. This proposal would changes the amount to less than $100 in each of the four preceding quarters if the employer is not otherwise required to file a withholding return on a quarterly or monthly basis.

FISCAL DESCRIPTION (continued)

Streamlined Sales and Use Tax Agreement

This proposal would require the Department of Revenue to enter into the Streamlined Sales and Use Tax Agreement. Missouri would be represented by three delegates in meetings with other states regarding the Agreements. One delegate would be appointed by the Governor, one would be appointed by mutual agreement between the Speaker of the House of Representatives and the President Pro Tern of the Senate, and one would be the Director of the Department of Revenue. These delegates would report annually to the General Assembly regarding the agreement.

The proposal would require state and local sales taxes to have the same bases by requiring identical exemptions at the state and local level, and local governments would be prohibited from opting out of sales tax holidays.

The proposal would provide uniform sourcing rules to determine the tax rates applicable to certain transactions.

The proposal would require the Department of Revenue to participate in an online registration system for sales tax collection. The Department would be required to provide electronic databases for taxing jurisdiction boundary changes, tax rates, and a taxability matrix detailing taxable property and services. Sellers would be relieved from liability if they fail to properly collect tax based upon information provided by the Department. Registration in the system could not be used as a factor to determine nexus with this state.

Amnesty would be available for sellers under certain circumstances following registration with the state. Monetary allowances would be provided to sellers and certified service providers for collecting and remitting state and local taxes equal to two percent of the taxes collected, but sellers and certified service providers would be prohibited from simultaneously receiving the monetary allowance and the two percent timely filed discount provided under current law. The proposal would also set out requirements for the seller and purchaser for tax exempt sales. For products that are bundled, with one item being taxable and the other nontaxable, the entire product would be subject to taxation unless the provider can properly identify the nontaxable portion. For products that are bundled items with different tax rates, the highest tax rate will be used for the entire product unless the provider can properly identify the lower taxed item.

The provisions relating to the Streamlined Sales and Use Tax Agreement would have an effective date of January 1, 2015.

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FISCAL DESCRIPTION (continued)

Use Tax Nexus

This act makes agreements between the executive branch and any person that exempts them from collection of sales and use tax void unless approved by both chambers of the General Assembly. The definition of "engages in business activities within this state" would be modified. The use of media to exploit Missouri's market would no longer make a vendor meet the definition. Being controlled by the same interests which control a seller engaged in a similar line of business in this state would also no longer meet the definition.

Under the Compensating Use Tax Law, a presumption would be created that a vendor engages in business activities in this state if any person with a substantial nexus to Missouri performs certain activities in relation to the vendor within this state. The presumption could be rebutted by showing that the person's activities are not significantly associated with the vendor's ability to maintain a market in Missouri.

A second presumption would be created that a vendor engages in business activities within this state if the vendor enters into an agreement with a resident of Missouri to refer customers to the vendor and the sales generated by the agreement exceed $10,000 in the preceding twelve months. This presumption could be rebutted by showing that the Missouri resident did not engage in activity within Missouri that was significantly associated with the vendor's market in Missouri in the preceding twelve months.

The definition of "maintains a place of business in this state" would be modified to remove common carriers from its provisions. Currently, there is an exemption from the definition of vendor for vendors whose gross receipts are less than certain amounts, do not maintain a place of business in Missouri, and have no selling agents in Missouri. This proposal would remove the exceptions.

FISCAL DESCRIPTION (continued)

Tax Amnesty

This proposal would grant amnesty for penalties, additions to tax, and interest accrued on a state tax liability due but unpaid as of December 31, 2012. Persons that are a party to a criminal investigation or civil or criminal litigation relating to unpaid taxes would be ineligible for the amnesty. Persons seeking amnesty would be required to apply between August 1, 2013, and October 31, 2013, and pay the balance of taxes due within 60 days of the application being accepted. If a taxpayer granted amnesty failed to comply in good faith with all state tax laws for the next eight years, they would be required to pay the amounts that were waived under the act. Finally, taxpayers granted amnesty could not participate in future amnesty programs for the same tax.

The tax amnesty provisions include an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Joint Committee on Administrative Rules
Office of Administration
    Division of Budget and Planning
Department of Conservation
Department of Revenue
University of Missouri
    Economic Policy and Analysis Research Center
St. Louis County
City of Kansas City

Ross Strope
Acting Director
May 8, 2013

SS:LR:OD